

I don't believe that the American families ought to have any less than the best. The Senator from California has an amendment to address that issue. We should listen carefully to it, and then we should move to let the Senate make a judgment on this decision. I look forward to the discussion and debate, and hopefully we can have some resolution of it.

I thank the Chair and yield the floor. Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts for his remarks. I don't think anyone in the Senate has ever done more to advance the cause of responsible medical reform than Senator KENNEDY from the State of Massachusetts. He also has been here day after day, with comment after comment, in speech after speech, trying to urge this body to act.

My general style is probably not as forceful as that of the distinguished Senator from Massachusetts. But about this particular issue I am going to be persistent, and I am going to be here for as long as it takes, until there is an opportunity to have a vote on this amendment.

Today, this morning, another arrow in the quiver of reform was played out above the fold in the Washington Post—something, as a doctor's daughter and a doctor's wife for many years, I never thought I would see in the United States of America—and that is, the American Medical Association voting to unionize doctors. The subhead under the headline reads: "Group Acts in Response to Managed Care's Effect on Rights, Duties of Physicians."

I want to quote two brief things from the article:

In setting up what they are calling a "national negotiating organization," AMA officials contended that only through collective bargaining can doctors win back control over which drugs they may prescribe for patients and how much treatment they can provide.

Mr. President, it is a disturbing day when physicians have to unionize to be able to prescribe and treat patients as they see fit. I can't believe that this day has come in the United States of America.

Let me end on this subject, with one quote from the AMA president, Dr. Nancy Dickey. She said:

Traditional unions are there primarily to care for their employee's needs. We are looking for a vehicle that will allow us to carry out the covenant we have with our patients.

That is the reason I am proposing this amendment—or hope to propose the amendment. I hope to have an opportunity to offer an amendment that represents the heart of HMO reform.

This amendment will prevent managed care plans from arbitrarily interfering with or altering the physician's

decision of what is a medically necessary service. The term medically necessary, or appropriate, is defined as "a service or benefit which is consistent with generally accepted principles of professional medical practice." That is something none of us can be opposed to. If this amendment were in fact the law, it would not be necessary for the American Medical Association to vote to unionize physicians. Physicians would have that right guaranteed by this amendment. Let me prove that by reading the actual wording of the amendment:

A group health plan, or health insurance issuer, in connection with health insurance coverage, may not arbitrarily interfere with, or alter, the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

The amendment is saying that if an individual buys a policy which specifies treatment for certain illnesses, the physician will be free to treat that patient as medically appropriate with respect to both the treatment and the setting.

That is what physicians at the AMA meeting yesterday just voted, to unionize to be able to care for their patients. Why do they need to have a union to achieve something which is self-evident, which is a part of medical training, which is the history of medicine in the United States of America, and has been the history of medicine in this country, up to the growth of managed care, which again could change and alter that history rather dramatically?

The terms "manner" and "setting" mean the location of treatment and the duration of treatment. That means, whether the treatment is in the office or the hospital, the physician has the right to determine the type of treatment and the length of, for example, the hospital stay. The physician would have the right to determine these things.

Physicians today are going to unionize in order to get that basic right, a right which we, the Congress, the Senate of the United States, could, if we chose, give them legislatively.

The term "medically necessary or appropriate" is defined in the amendment as a service or benefit which is consistent with generally accepted medical practice—a very standard definition, a very well-accepted definition.

This amendment is intended to restore the physician to medical care. Very simply stated, I agree with the American College of Surgeons, which said:

Any health care system or plan that removes the surgeon [or doctor] and the patient from the medical decision-making process only undermines the quality of the patient's care and his or her health and well-being.

Our system today has done just that. And the action taken by doctors to unionize strongly suggests that.

Medical providers today are feeling kicked around, arm twisted, "incentivized," and compromised when they try to provide good care to sick people.

I am compelled to offer this amendment because I have no other choice. Yes, I want to pass an agriculture appropriations bill, but I have been trying for almost 3 years now to pass legislation like this to restore medical decisionmaking to medical professionals. As Congress dawdles, the complaints keep rising, people get poor care, and people die.

Let me talk a little bit about managed care.

Managed care is a growing form of health insurance in America. I support managed care. I believe it can in fact be a cost-effective way of delivering good health care to large numbers of people. But it can't do that if accountants and the "green eyeshade" personnel make the decision for the physician. The physician has to make the decision as to what is appropriate medical care.

Today over 160 million Americans—or 75 percent of the insured population—have managed care plans. My State of California—this is the reason I have decided to be so persistent—has the highest penetration of managed care of any state. Eighty-five percent of insured Californians are in some form of managed care.

As managed care has grown, so have the complaints. There seems to be a steady stream of them into my offices, and into other Congressional offices and in the media.

A Kaiser Family Foundation and Harvard University study found the following:

First, a majority—actually 59 percent of Americans—say managed care plans have made it harder for people who are sick to seek medical specialists.

Second, three out of five—61 percent—say managed care has reduced the amount of time doctors can spend with patients.

Third, a majority of people in managed care—55 percent—say they are worried that if they are sick, their health plan would be more concerned about saving money than about what is the best medical treatment.

In Sacramento, a survey of managed care enrollees found that of those consumers experiencing problems, the most common problems were:

One, delay, or denial of care, or payment, 42 percent;

Two, limited access to physicians, 32 percent, such as difficulty getting an appointment, or limited access to specialists;

Three, concerns about quality of care, 11 percent, including inappropriate treatment, facilities, or diagnosis.

As managed care has grown, the pressures on doctors and other professionals to control costs have come at the expense of people's health. In other

words, as the plans grow, the pressures on doctors to cut treatment, to prescribe cheaper drugs, to cut hospital stays also increase.

Doctors report to us that they have to spend hours on the phone with insurance accountants and adjusters justifying medical decisions. That should not happen. They tell me they have to provide mountains of paperwork documenting patients' problems. This is a real change.

When my father was chief of surgery at the University of California Medical Center, he had one secretary. He saw patients in his office at the University of California. He taught surgery in the medical school. And there was very little paperwork. Today, walk into virtually any surgeon's office, and there is a mound of paper, there are rooms full of staff, there are accountants, and there is a huge stream of paperwork.

Medicine has changed dramatically in the United States. Not all of that is bad. I am the first one to say it. Many people have good coverage. The problem is the cost of that coverage and whether that coverage is providing for timely and appropriate diagnoses and treatments, which are the finest, as Senator KENNEDY said, that people can expect.

I am also told that physicians are spending increasing time having to fight insurance companies that try to impose rules on their medical practices—rules that are not considered to be the best medical practice or may not even fit an individual's illness. They tell me they have to exaggerate illnesses to get coverage. They tell me they have to struggle to balance medical necessity against insurance company bottom lines.

One survey of California doctors by the California Medical Association found that fewer than 10 percent of doctors had good experiences with managed care. That is what is leading to this headline, "AMA Votes to Unionize." That is what this amendment can change.

Another study reported in the November 1998 New England Journal of Medicine found that 57 percent of primary care doctors in California felt pressure to limit referrals, and 17 percent said that this actually compromised the care of their patients.

Doctors are trained to diagnose and treat based on the best professional medical practice. They know that every individual brings to their office a unique history, unique biology, and unique conditions. And they know that people vary tremendously. What works in one person may not work in the next.

The point I am trying to make is that people vary tremendously. The drug that works in one and has no side effects may work differently in another person. A 70-year-old with the flu or pneumonia is very different from a 30-year-old with the flu or pneumonia. A person with high blood pressure or anemia may need an extra day or two in the hospital after surgery.

This is why the physician should determine the treatment, the length of treatment, the length of hospital stay. That is what my amendment attempts to accomplish.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

PATIENTS' BILL OF RIGHTS PLUS

Mr. GRAMS. Mr. President, I wish to talk this morning about health care. I find it ironic we are trying to get to a very important agricultural appropriations bill, and the Democratic side of the aisle is preventing the Senate from moving on that. Hopefully we can work out an agreement on these health care issues and discuss and debate them openly. I look forward to the debate.

I find it humorous when Senator KENNEDY calls our bill the "Patient Bill of Wrongs". It seems that if it is not his way, it is the wrong way. Our bill is the Patients' Bill of Rights Plus, which I think goes further in trying to encourage people to get health insurance and to have coverage, rather than leading America toward a government-type system of national health care.

I am looking forward to the debate. I hope the agreement can be worked out and we can discuss the different views on health care reform, listen to Senator KENNEDY on his Patients' Bill of Rights, and also to have adequate time to fully debate the Republican plan, Senator NICKLES' bill, the Patients' Bill of Rights Plus. I think we must have time to compare and contrast those two plans. I think the American people are going to get a good idea where both parties stand on the direction of health care and health care reform in the near future.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1274 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I ask unanimous consent at the conclusion of my remarks that the Senator from North Carolina, Mr. EDWARDS, be recognized for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Mr. President, once again my Democratic colleagues in the Senate have joined this week in a discussion of the overwhelming national need for reform of managed health care. Once again, Senators from States across the Nation have shared the experiences of their constituents, the frustrations of their families at being denied the treatment and care through managed care for which they are paying.

Once again, it has been a one-sided discussion. We have been talking about the need for reform of managed care while our friends and colleagues across the aisle have been preventing any real debate. The American people have

waited long enough for a basic and fundamental reform of the managed health care system in America. We have allowed weeks, months and even years to pass while recognizing American families are in jeopardy and not receiving the care they need, deserve, or have even paid for. There is simply no further excuse for delay.

During this session of the Congress, this Senate has spent 7 days considering 38 amendments on the relatively simple concept of educational flexibility. The Senate had 8 days available for 52 amendments on juvenile justice; 4 days for 159 amendments on defense authorization; 13 days to consider 51 amendments on the Y2K problem. These were all important issues, all legitimate. But in each and every instance time was not an issue; the available amendments by Members of the Senate were fully considered. On this single issue, which affects as many or more Americans than any of these others, the Senate does not have time; it cannot give its attention.

Like other Members of the Senate who have come to the floor to discuss the experiences of their constituencies, I want to share the experience of one of mine: A young woman from Spotswood, NJ, Kristin Bolinger. Kristin suffers from a unique condition that causes seizures and scoliosis, but it can be managed with proper treatment. The genius of medical science in America, the care of her doctors, can prevent these seizures that are interrupting her life. Her family is enrolled in an HMO. She was denied access to a specialist, the one with the knowledge to treat her illness. The procedure was deemed unnecessary. She was denied critical home nursing, denied physical therapy, denied reimbursement. The fact of the matter is, the care her parents were paying for, she was paying for, the benefit of the genius of American medical science, was denied to her.

There are 161 million Americans just like Kristin, covered by managed care, who simply cannot wait any longer for this Senate to find their problems, the tragedies of their families, relevant. In my State, in New Jersey, 3.8 million people who are part of health maintenance organizations have no legal protections. Like their fellow citizens across America, they believe it is time for us to act. The American people have been polled and 79 percent are in favor of and demand some reform in the management of health care in America. They believe, as I believe, that doctors, specialists, people trained to care, should be making these medical judgments; not accountants, not financial managers. People should be making decisions to provide care who know what care is required.

There is a lot that has changed in American health care through the years. The family doctor who in the middle of the night knocked on your door to help may be gone. By necessity, it may all have changed. But we do not have to abandon that one principle